

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FRANK W. PETERING,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:08-CV-572 DDN
)	
AL LUEBBERS,)	
)	
Respondent.)	

ORDER AND MEMORANDUM

This matter is before the Court upon Frank Petering's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The Petition

Petitioner, a Missouri state prisoner incarcerated at the Farmington Correctional Center ("FCC"), seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 for a conviction which arose in Boone County, Missouri. The FCC is located in St. Francois County, Missouri, which is in the Eastern District of Missouri. 28 U.S.C. § 105(a)(1). Boone County is located in the Western District of Missouri. 28 U.S.C. § 105(b)(4).

Discussion

Pursuant to 28 U.S.C. § 2241(d), the Eastern District of Missouri and the Western District of Missouri have concurrent jurisdiction to entertain the petition. Where two district courts have concurrent jurisdiction over a petition for a writ of habeas corpus, the district in which the petition is originally filed may, in the exercise of its discretion and in furtherance of justice, transfer the petition to the other district court for hearing and determination. 28 U.S.C. § 2241(d). Furthermore, on January 27, 1986, this Court entered an order stating that, absent unusual

circumstances, any habeas corpus petition challenging a conviction or sentence arising out of a proceeding in the Western District of Missouri shall be transferred to that district pursuant to 28 U.S.C. § 2241(d). See In re: Business of the Court, January 27, 1986.

Because the conviction in this action arose in the Western District of Missouri, the Court believes that the interest of justice would be better served if the petition were transferred to the United States District Court for the Western District of Missouri.

Therefore,

IT IS HEREBY ORDERED that the Clerk shall not issue process or cause process to be issued upon the said petition because the petition is to be transferred.

An appropriate order shall accompany this memorandum and order.

Dated this 9th day of May, 2008


UNITED STATES DISTRICT JUDGE